

Doc Code: AP.PRE.REQ

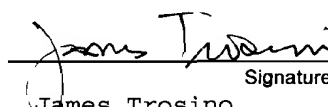
PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		Application Number	Filed
		09/328,983	09-Jun-1999
		First Named Inventor	
		Anders Richard Wallgren	
		Art Unit	Examiner
		3625	YOGESH C. GARG
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 39,862 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

  
Signature

James Trosino

Typed or printed name

(415) 495-7750

Telephone number

09-Apr-2007

Date

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Anders Richard Wallgren et al.  
Application No. : 09/328,983  
Filed : 09 June 1999  
For : ITERATIVE CONSTRAINT COLLECTION  
: SCHEME FOR PREPARATION OF CUSTOM  
: MANUFACTURING CONTRACTS  
Group Art Unit : 3625  
Examiner : YOGESH C. GARG

Mail Stop AF  
Commissioner for Patents  
P.O. BOX 1450  
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF  
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 23-38 are currently pending. All of the pending claims have been rejected under 35 U.S.C. § 103(a) as being obvious based on Thackston, U.S. Patent No. 6,295,513 (“Thackston”), in view of Hill U.S Patent No. 5,970,471 (“Hill”), and further view of Huberman U.S. Patent No. 5,826,244 (“Huberman”). Applicants respectfully submit that these rejections are clearly erroneous, and that the Examiner has failed to establish a prima facie case of obviousness. Applicants respectfully request that this Request be granted, and that the Examiner’s rejections be withdrawn.

Independent claims 23 and 31 recite systems and methods for forming a contract for completing a print job, the systems and methods receiving a user-supplied set of constraints regarding a print job project, storing the set of constraints in a database as an object, creating a plurality of instances of the object, each instance uniquely

associated with a corresponding vendor, and communicating each instance of the object to its corresponding associated vendor. The 8 November 2006 Final Office action (the “Final Action”) fails to establish a prima facie case of obviousness because none of the cited references, alone or combined, describe or suggest systems or methods that receive a user-supplied set of constraints regarding a print job project, store the set of constraints in a database as an object, create a plurality of instances of the object, each instance uniquely associated with a corresponding vendor, and communicate each instance of the object to its corresponding associated vendor.

The Final Action at 3-4 states that Thackston teaches using web browser templates to submit an “RFQ form,” and that the RFQ form includes constraints, such as quantity requirements, etc. Thus, the Examiner suggests that the RFQ form constitutes the claimed user-supplied set of constraints regarding a print job project. The claims require storing the user-supplied set of constraints in a database as an object, and creating a plurality of instances of the object, each instance uniquely associated with a corresponding vendor. Thus, based on the Examiner’s interpretation, Thackston should disclose storing the RFQ in a database as an object, and creating a plurality of instances of the RFQ, each instance uniquely associated with a corresponding vendor. Thackston does not, however, describe or suggest anything of the sort, and the Examiner has failed to identify any such description or suggestion.

Instead, the Final Action at 4 states that the vendors’ responses and iterative responses to the RFQ correspond to “creating a plurality of instances wherein each instance is uniquely associated with a corresponding vendor” (emphasis added). First, the claims do not recite “creating a plurality of instances,” but instead recite “creating a plurality of instances of the object” (where the object is the stored user-supplied set of constraints) (Claim 23) and “a database comprising a plurality of objects, each object comprising the set of user-supplied constraints” (Claim 31). Thus, the Final Action has not addressed the actual claim language, but instead addresses language that is not in the claims.

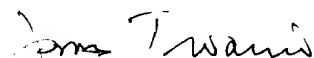
Second, even if the Examiner had not misread the claim language, the Examiner’s assertion regarding the vendors’ “responses and iterative responses” is inconsistent with earlier his assertion that the RFQ form constitutes the claimed user-supplied set of constraints. One the one hand, the Examiner asserts that the RFQ is the

stored database object, but then on the other hand, the Examiner asserts that the vendors' responses to the RFQ constitute the plurality of instances of the stored database object. The two assertions are internally inconsistent, and make no sense.

Third, if a vendor's "responses and iterative responses" constitute the plurality of instances of the object, each instance uniquely associated with a corresponding vendor, then the additional claim language reciting "communicating each instance of the object to its corresponding associated vendor" (Claim 23), and "communicat[ing] each associated object to its corresponding vendor" (Claim 31) would make no sense. Indeed, although Thackston discloses that each vendor communicates its RFQ response to the prime contractor/designer who actually solicited the RFQ, Thackston does not describe or suggest that any vendor communicates the vendor's response to itself. The reason is clear, as it would make no sense for a vendor to communicate to itself.

Applicants should not be required to incur the time and additional expense of preparing and filing an appeal brief, and further prosecuting an appeal of the clearly erroneous rejections in this case. Accordingly, applicants respectfully request that this Request be granted, and that the Examiner's rejections be withdrawn.

Respectfully submitted,

  
\_\_\_\_\_  
James Trosino  
Registration No. 39,862  
Attorney for Applicants